

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARTHA FEDORIW
4134 Cambridge Court
Schnecksville, PA 18078

Civil Action No.:
1:07-CV-07446-HB

Plaintiff,

ANSWER WITH
CROSS-CLAIM

-against-

CARL ZEISS VISION, INC.
13017 North Kingston Avenue
Chester, VA 23836

and

REED EXHIBITION COMPANIES
383 Main Avenue
Norwalk, CT 06851

and

MAUK DESIGN, INC.
330 Fell Street
San Francisco, CA 94102

and

PINNACLE EXHIBITS, INC.
22400 NW Westmark Drive
Hillsboro, OR 97124

Defendants,

and

NEW YORK CONVENTION CENTER
OPERATING CORPORATION
655 West 34th Street
New York, NY 10001

Cross-Defendant.

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The defendant, MAUK DESIGN, INC., by its attorneys,
KELLY, RODE & KELLY, LLP, answering the Complaint of the plaintiff
herein:

ANSWERING EACH AND EVERY CAUSE
OF ACTION OF THE COMPLAINT

1. Admits that plaintiff purports to state claims for negligence in the complaint; deny that the defendant is liable for any of the causes of action contained in the complaint; and deny the remaining allegations contained in paragraph "1" except admit that defendant was involved in the design of the Zeiss Vision booth.

2. The averments of paragraph "2" are conclusions of law to which no response is required. To the extent a response is deemed required, the averments this paragraph are denied.

3. Denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "3" of the Complaint.

4. Denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "4" of the Complaint.

5. Admit that defendant, MAUK DESIGN, INC., is a California corporation with its principal place of business at 330 Fell Street, San Francisco, California.

6. Denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "6" of the Complaint.

7. Denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "7" of the Complaint.

8. The averments of paragraph "8" are conclusions of law to which no response is required.

9. The averments of paragraph "9" are conclusions of law to which no response is required.

10. Denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "10" of the Complaint.

11. Denies each and every allegation contained in paragraphs numbered "11" of the Complaint.

12. Repeats, reiterates and realleges each and every admission and denial heretofore made to the allegations contained in the paragraphs mentioned in paragraph numbered "12" of the Complaint with the same force and effect as if here repeated and again set forth at length.

13. Denies each and every allegation contained in paragraph numbered "13" of the Complaint.

14. Denies each and every allegation contained in paragraph numbered "14" of the Complaint.

15. Denies each and every allegation contained in paragraph numbered "15" of the Complaint.

16. Denies each and every allegation contained in paragraph numbered "16" of the Complaint.

17. Denies each and every allegation contained in paragraph numbered "17" of the Complaint.

18. Denies each and every allegation contained in paragraph numbered "18"(a)-(j) of the Complaint.

19. Denies each and every allegation contained in paragraph numbered "19" of the Complaint.

20. Denies each and every allegation contained in paragraph numbered "20" of the Complaint.

21. Denies each and every allegation contained in paragraph numbered "21" of the Complaint.

22. Denies each and every allegation contained in paragraph numbered "22" of the Complaint.

23. Repeats, reiterates and realleges each and every admission and denial heretofore made to the allegations contained in the paragraphs mentioned in paragraph numbered "23" of the Complaint with the same force and effect as if here repeated and again set forth at length.

24. Denies each and every allegation contained in paragraph numbered "24" of the Complaint insofar as the same are alleged as to this answering defendant.

25. Denies each and every allegation contained in paragraph numbered "25" of the Complaint insofar as the same are alleged as to this answering defendant.

26. Denies each and every allegation contained in paragraph numbered "26" of the Complaint insofar as the same are alleged as to this answering defendant.

27. Denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "27" of the Complaint.

28. Denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "28" of the Complaint.

29. Denies each and every allegation contained in paragraph numbered "29"(a)-(f) of the Complaint.

30. Denies each and every allegation contained in paragraph numbered "30" of the Complaint.

31. Denies each and every allegation contained in paragraph numbered "31" of the Complaint.

32. Denies each and every allegation contained in paragraph numbered "32" of the Complaint.

33. Denies each and every allegation contained in paragraph numbered "33" of the Complaint.

34. Repeats, reiterates and realleges each and every admission and denial heretofore made to the allegations contained in the paragraphs mentioned in paragraph numbered "34" of the Complaint with the same force and effect as if here repeated and again set forth at length.

35. Denies each and every allegation contained in paragraph numbered "35" of the Complaint insofar as the same are alleged as to this answering defendant.

36. Denies each and every allegation contained in paragraph numbered "36" of the Complaint.

37. Denies each and every allegation contained in paragraph numbered "37" of the Complaint.

38. Denies each and every allegation contained in paragraph numbered "38" of the Complaint.

39. Denies each and every allegation contained in paragraph numbered "39" of the Complaint.

FOR A FIRST, SEPARATE AND COMPLETE DEFENSE
THE DEFENDANT, MAUK DESIGN, INC., RESPECTFULLY
SHOWS THIS COURT, UPON INFORMATION AND BELIEF:

40. That any injuries or damages sustained by the plaintiff were occasioned through the negligence and culpable conduct on the part of the plaintiff.

FOR A SECOND, SEPARATE AND COMPLETE DEFENSE
THE DEFENDANT, MAUK DESIGN, INC., RESPECTFULLY
SHOWS THIS COURT, UPON INFORMATION AND BELIEF:

41. That the party making claims failed to mitigate damages.

FOR A THIRD, SEPARATE AND COMPLETE DEFENSE
THE DEFENDANT, MAUK DESIGN, INC., RESPECTFULLY
SHOWS THIS COURT, UPON INFORMATION AND BELIEF:

42. That the answering defendant, if found to be at all liable, is entitled to a limitation of that liability pursuant to Article 16 of the CPLR.

FOR A FOURTH, SEPARATE AND COMPLETE DEFENSE
THE DEFENDANT, MAUK DESIGN, INC., RESPECTFULLY
SHOWS THIS COURT, UPON INFORMATION AND BELIEF:

43. That the plaintiff's Complaint fails to state sufficient facts to constitute a cause of action against this defendant.

AS A BASIS FOR AFFIRMATIVE RELIEF AND AS FOR A CROSS-COMPLAINT AGAINST CO-DEFENDANT(S) CARL ZEISS VISION, INC., REED EXHIBITION COMPANIES, PINNACLE EXHIBITS, INC., and NEW YORK CONVENTION CENTER, THIS ANSWERING DEFENDANT
ALLEGES UPON INFORMATION AND BELIEF:

44. That if judgment is rendered against this defendant, the defendant will be damaged thereby and demands that such judgment be apportioned in accordance with the respective degrees of fault of those culpable, and further demands that this defendant be granted indemnification in accordance with any applicable contracts, agreements or warranties, express or implied, or by reason of the active, and primary negligence of the other defendants herein.

WHEREFORE, the answering defendant, MAUK DESIGN, INC. demands judgment dismissing the Complaint herein as to the answering defendant with costs, and further demands that the ultimate rights of the answering defendant and the co-defendant(s), CARL ZEISS VISION, INC., REED EXHIBITION COMPANIES, PINNACLE EXHIBITS, INC., NEW YORK CONVENTION CENTER, as between themselves be determined in this action, and that the answering defendant have judgment over and against the co-defendant(s), CARL ZEISS VISION, INC., REED EXHIBITION COMPANIES, PINNACLE EXHIBITS, INC., NEW YORK

CONVENTION CENTER, for all or a part of any verdict or judgment which may be obtained herein by the plaintiff against the answering defendant, together with costs and disbursements of this action.

Dated: Mineola, New York
March 12, 2008

Respectfully submitted,

KELLY, RODE & KELLY, LLP
Attorneys for Defendant
MAUK DESIGN, INC.
330 Old Country Road
Suite 305
Mineola, NY 11501
Our File No.: SV 100850-400



ERIC BETRON (EB 6855)

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Garfinkel
Attorneys for
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OPERATING CORPORATION
110 William Street
17th Floor
New York, New York 10038
(212) 809-8000

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2008, I served a true copy of the annexed ANSWER by mailing same in a sealed envelope, by first class mail with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

MEYERSON & O'NEILL
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Philadelphia, PA 19103


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